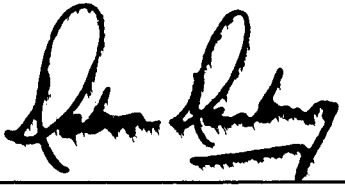


95 JAN 30 PM 3:04

HOUSE OF REPRESENTATIVES

I certify that the attached is a true and correct copy of the document which was filed of record in the Chief Clerk's Office and referred to the committee on:

Criminal Jurisprudence
Cynthia Burkhardt
Chief Clerk of the House

By 

H. B. No. 126

A BILL TO BE ENTITLED

AN ACT

relating to a prohibition on the requirement of a polygraph examination of a complainant as a condition to charging defendants accused of certain criminal offenses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 15, Code of Criminal Procedure, is amended by adding Article 15.051 to read as follows:

Art. 15.051. POLYGRAPH EXAMINATION OF COMPLAINANT
PROHIBITED. A peace officer or attorney representing the state may
not request or require a polygraph examination of a person who
charges or seeks to charge in a complaint the commission of an
offense under Section 21.11, 22.011, 22.021, or 25.02, Penal Code.

SECTION 2. This Act takes effect September 1, 1995.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

COAUTHOR AUTHORIZATION 74TH LEGISLATURE

(please request your coauthors to sign this form
in lieu of the front or the back of the original bill)

For chief clerk use only

Bill or Resolution Number:

HB 126

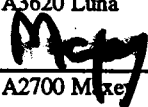


Signature of primary author

DEBRA DANBURG
printed name of primary author11-18-94
DatePERMISSION TO SIGN HB 126 HAS BEEN GIVEN TO (check only one of the following):
(bill or resolution #)☒ ALL REPRESENTATIVES☐ THE FOLLOWING REPRESENTATIVE(S): _____

I authorize the Chief Clerk to include my name as a coauthor of the legislation indicated above:

A2120 Alexander	Date	A2115 Allen	Date	A2125 Alonzo	Date
A2105 Alvarado	Date	A2135 Averitt	Date	A2160 Bailey	Date
A2200 Berlanga	Date	A2240 Black	Date	A2270 Bomer	Date
A2275 Bosse	Date	A2265 Brady	Date	A2260 Brimer	Date
A2405 Carona	Date	A2400 Carter	Date	A2480 Chisum	Date
A2530 Clemons	Date	A2435 Coleman	Date	A2575 Combs	Date
A2580 Conley	Date	A2570 Cook	Date	A2595 Corte	Date
A2600 Counts	Date	A2605 Crabb	Date	A2610 Craddick	Date
A2645 Cuellar, Henry	Date	A2646 Cuellar, Renato	Date	A2635 Culberson	Date
A2670 Danburg	Date	A2675 Davila	Date	A2625 Davis	Date
A2630 De La Garza	Date	A2685 Dear	Date	A2680 Delisi	Date
A3385 Denny	Date	A2705 Driver	Date	A2665 Dukes	Date
A2655 Duncan	Date	A2650 Dutton	Date	A2770 Edwards	Date
A2760 Ehrhardt	Date	A2775 Eiland	Date	A2785 Elkins	Date
A2810 Farrar	Date	A2830 Finnell	Date	A2920 Gallego	Date
A2935 Giddings	Date	A2880 Glaze	Date	A2985 Goodman	Date
A2990 Goolsby	Date	A3005 Gray	Date	A3010 Greenberg	Date
A3020 Grusendorf	Date	A3030 Gutierrez	Date	A3035 Haggerty	Date
A2695 Hamric	Date	A3120 Harris	Date	A3170 Hartnett	Date
A3345 Hawley	Date	A3180 Heflin	Date	A3230 Hernandez	Date
A3240 Hightower	Date	A3310 Hilbert	Date	A3250 Hilderbran	Date

For chief clerk use only
Bill or Resolution Number: HB 126

A3275 Hill	Date	A3285 Hirschi	Date	A3305 Hochberg	Date
A3295 Holzheuser	Date	A3300 Horn	Date	A3315 Howard	Date
A3350 Hudson	Date	A3355 Hunter, Bob	Date	A3365 Hunter, Todd	Date
A3380 Jackson	Date	A3415 Janek	Date	A3395 Johnson	Date
A3405 Jones, Delwin	Date	A3400 Jones, Jesse	Date	A3440 Junell	Date
A3460 Kamel	Date	A3465 King	Date	A3485 Krusee	Date
A3490 Kubiak	Date	A3450 Kuempel	Date	A3510 Laney	Date
A3605 Lewis, Glenn	Date	A3600 Lewis, Ron	Date	A3615 Longoria	Date
A3620 Luna	Date	A3715 Madden	Date	A3750 Marchant	Date
A2700 M 	1-24-95 Date	A3665 McCall	Date	A3670 McCoulskey	Date
A3660 McDonald	Date	A3850 Moffat	Date	A3860 Moreno	Date
A3865 Mowery	Date	A3855 Munoz	Date	A3885 Naishtat	Date
A3895 Nixon	Date	A3875 Oakley	Date	A3990 Ogden	Date
A3880 Oliveira	Date	A4020 Park	Date	A4070 Patterson	Date
A4180 Pickett	Date	A4185 Pitts	Date	A4110 Place	Date
A4190 Price	Date	A4200 Puente	Date	A4230 Rabuck	Date
A4210 Ramsay	Date	A4240 Rangel	Date	A4235 Raymond	Date
A4236 Reyna	Date	A4260 Rhodes	Date	A4315 Rodriguez	Date
A4325 Romo	Date	A4305 Rusling	Date	A4370 Sadler	Date
A4380 Saunders	Date	A4425 Seidlits	Date	A4460 Serna	Date
A4435 Shields	Date	A4445 Siebert	Date	A4530 Smithee	Date
A4550 Solis	Date	A4505 Solomons	Date	A4510 Stiles	Date
A4570 Swinford	Date	A4585 Talton	Date	A4605 Telford	Date
A4630 Thompson	Date	A4635 Tillery	Date	A4640 Torres	Date
A2730 Turner, Bob 	Date	A4685 Turner, Sylvester	Date	A4690 Uher	Date
A4720 Van de Putte	Date	A4990 Walker	Date	A4995 West	Date
A5010 Williamson	Date	A4970 Willis	Date	A5000 Wilson	Date
A5015 Wohlgenuth 	2-21-95 Date	A4980 Wolens	Date	A5005 Woolley	Date
A5025 Yarbrough	Date	A5030 Yost	Date	A5040 Zbraneck	Date

HOUSE COMMITTEE REPORT

95 MAR 15 PM 6:30
HOUSE OF REPRESENTATIVES

1st Printing

By Danburg, et al.

H.B. No. 126

Substitute the following for H.B. No. 126:

By Greenberg

C.S.H.B. No. 126

A BILL TO BE ENTITLED

AN ACT

relating to a prohibition of the requirement of a polygraph examination of a complainant as a condition of charging a defendant accused of certain criminal offenses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 15, Code of Criminal Procedure, is amended by adding Article 15.051 to read as follows:

Art. 15.051. POLYGRAPH EXAMINATION OF COMPLAINANT PROHIBITED. (a) A peace officer may not require a polygraph examination of a person who charges or seeks to charge in a complaint the commission of an offense under Section 21.11, 22.011, 22.021, or 25.02, Penal Code.

(b) If an attorney representing the state requests a polygraph examination of a person who charges or seeks to charge in a complaint the commission of an offense listed in Subsection (a), the attorney must inform the complainant that the examination is not required and that a complaint may not be dismissed solely:

(1) because a complainant did not take a polygraph examination; or

(2) on the basis of the results of a polygraph examination taken by the complainant.

(c) An attorney representing the state may not take a polygraph examination of a person who charges or seeks to charge the commission of an offense listed in Subsection (a) unless the

1 attorney provides the information in Subsection (b) to the person
2 and the person signs a statement indicating the person understands
3 the information.

4 (d) A complaint may not be dismissed solely:

5 (1) because a complainant did not take a polygraph
6 examination; or

7 (2) on the basis of the results of a polygraph
8 examination taken by the complainant.

9 SECTION 2. This Act takes effect September 1, 1995.

10 SECTION 3. The importance of this legislation and the
11 crowded condition of the calendars in both houses create an
12 emergency and an imperative public necessity that the
13 constitutional rule requiring bills to be read on three several
14 days in each house be suspended, and this rule is hereby suspended.

COMMITTEE REPORT

The Honorable Pete Laney
Speaker of the House of Representatives

03-13-95
(date)

Sir:

We, your COMMITTEE ON CRIMINAL JURISPRUDENCE

to whom was referred HB 126 have had the same under consideration and beg to report back with the recommendation that it

- () do pass, without amendment.
() do pass, with amendment(s).
(X) do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.
(X) yes () no A fiscal note was requested.
(X) yes () no A criminal justice policy impact statement was requested.
() yes () no An equalized educational funding impact statement was requested.
() yes () no An actuarial analysis was requested.
() yes () no A water development policy impact statement was requested.
() The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars.

For Senate Measures: House Sponsor _____

Joint Sponsors _____ / _____ / _____ / _____

Co-Sponsors: _____

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Place, Ch.	X			
Talton, V.C.	X			
Farrar	X			
Greenberg	X			
Hudson	X			
Nixon	X			
Pickett	X			
Pitts	X			
Solis	X			

Total 9 aye
 0 nay
 0 present, not voting
 0 absent

[Signature]
CHAIRMAN

BILL ANALYSIS

Criminal Jurisprudence Committee
C.S.H.B. 126
By: Danburg
3-13-95
Committee Report (Substituted)

BACKGROUND

Currently, Chapter 15, Code of Criminal Procedure, does not regulate the use of polygraph examinations on victims charging defendants with certain sexual offenses. The instrument cannot detect deception by itself; rather, the results of the test depend heavily on the interaction between the examiner and the person undergoing the test. The examiner must infer deception or truthfulness by the subject's physiological responses to various questions. Correct guilty detections range from 17 to 100 percent. For greater accuracy, the voluntary cooperation of the individual is recommended.

PURPOSE

If enacted, H.B. 126 would prohibit peace officers from requiring submission to a polygraph examination for persons charging certain sexual assault offenses. In addition, H.B. 126 would require attorneys representing the state and requesting submission to polygraph exams to provide certain information to the complainant regarding the voluntary nature of submission to a polygraph exam.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 15, Code of Criminal Procedure (ARREST UNDER WARRANT), by adding Article 15.051, as follows:

Art. 15.051. POLYGRAPH EXAMINATION OF COMPLAINANT PROHIBITED.

(a) Prohibits a peace officer from requiring a polygraph examination of a person who charges or seeks to charge in a complaint certain offenses, including indecency with a child, sexual assault, aggravated sexual assault, and prohibited sexual conduct (Sections 21.11, 22.011, 22.021, and 25.02, Penal Code).

(b) Requires an attorney representing the state, if requesting a polygraph exam of a person who charges or seeks to charge in a complaint the commission of an offense listed in Subsection (a), to inform the complainant that the exam is not required and that a complaint may not be dismissed solely:

(1) because the complainant did not take the polygraph exam; or

(2) on the basis of the results of a polygraph exam taken by the complainant.

(c) Prohibits an attorney representing the state to take a polygraph exam of a person charging an offense listed in Subsection (a) unless the attorney provides the information in Subsection (b) to the person and the person signs a statement indicating an understanding of the information.

(d) Prohibits a complaint from being dismissed solely:

(1) because a complainant did not take a polygraph exam; or

(2) on the basis of the results of a polygraph exam taken by the complainant.

SECTION 2. Effective date: September 1, 1995.

SECTION 3. Emergency clause.

COMPARISON OF ORIGINAL TO SUBSTITUTE

As introduced, H.B. 126 would prohibit both peace officers and attorneys for the state from requiring submission to a polygraph examination for persons charging certain sexual assault offenses. The committee substitute still prohibits peace officers from administering polygraph exams, but allows attorneys for the state to request, but not require, complainants to take a polygraph exam. The attorney for the state must inform the complainant that the exam is not required and that a complaint may not be dismissed: (1) because a complainant did not take the polygraph exam or (2) on the basis of the results of the polygraph exam. The complainant must sign a statement indicating an understanding of the information regarding the voluntary nature of submitting to the exam and the fact that the case cannot be dismissed because of certain circumstances surrounding the polygraph.

SUMMARY OF COMMITTEE ACTION

H.B. 126 was considered in a public hearing on March 13, 1995. At that meeting a complete committee substitute was offered by Rep. Greenberg.

The Chair recognized a minor to testify in favor of the bill. The rules had been suspended on the house floor on March 13, 1995 to allow the minor to testify without revealing the minor's identity or submitting a witness affidavit form. The rules also were suspended to allow the committee to exclude the name of the witness or other identifying information from the minutes, from other records, and the committee report on H.B. 126.

The following persons testified in favor of the bill:

Mark Clark, representing the Combined Law Enforcement Associations of Texas (CLEAT);
Sandra Canfield, representing herself; and
Lacey Sloan, representing the Texas Association Against Sexual Assault.

The following persons testified on the bill:

Sheriff Dan Smith, representing the Sheriff's Association Legislative Committee;
Bryan M. Perot, representing the State of Texas Polygraph Examiners Board; and
Michael C. Gougler, representing the Texas Department of Public Safety.

The following persons testified against the bill:

Gordon W. Moore, representing the Texas Association of Law Enforcement Polygraph Investigators;
Ernie Hulsey, representing the Texas Association of Polygraph Examiners; and
Charles Johnson, representing the Texas Police Chiefs Association.

The following person testified against the bill but in favor of the substitute:

Sgt. Julie T. O'Brien, representing herself.

On March 13, 1995 the substitute for H.B. 126 was adopted. H.B. 126 was reported favorably, as substituted, with the recommendation that it do pass and be printed, by a record vote of 9 ayes, 0 nays, 0 pnv, and 0 absent.

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

**FISCAL NOTE
74th Regular Session**

March 14, 1995

**TO: Honorable Allen Place, Chair
Committee on Criminal Jurisprudence
House of Representatives
Austin, Texas**

**IN RE: Committee Substitute for
House Bill No. 126**

FROM: John Keel, Director

In response to your request for a Fiscal Note on House Bill No. 126 (relating to a prohibition of the requirement of a polygraph examination of a complainant as a condition of charging a defendant accused of certain criminal offenses) this office has determined the following:

No fiscal implication to the State is anticipated.

The fiscal implication to units of local government cannot be determined.

Source: LBB Staff: JK, BR, RR

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

**FISCAL NOTE
74th Regular Session**

February 24, 1995

**TO: Honorable Allen Place, Chair
Committee on Criminal Jurisprudence
House of Representatives
Austin, Texas**

**IN RE: House Bill No. 126
By: Danburg**

FROM: John Keel, Director

In response to your request for a Fiscal Note on House Bill No. 126 (Relating to a prohibition on the requirement of a polygraph examination of a complainant as a condition to charging defendants accused of certain criminal offenses.) this office has determined the following:

No fiscal implication to the State is anticipated.

The fiscal implication to units of local government cannot be determined.

Source: LBB Staff: JK, BR, RR

LEGISLATIVE BUDGET BOARD
CRIMINAL JUSTICE POLICY IMPACT STATEMENT

February 22, 1995

TO: Honorable Allen Place, Chair
Committee on Criminal Jurisprudence
House of Representatives
Austin, Texas

IN RE: House Bill No. 126
By: Danburg

FROM: John Keel, Director

In response to your request for a Criminal Justice Policy Impact Statement on HB126 (Relating to a prohibition on the requirement of a polygraph examination of a complainant as a condition to charging defendants accused of certain criminal offenses.) this office has determined the following:

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

HOUSE COMMITTEE REPORT SUPPLEMENTAL PRINTING

95 MAR 16 PM 8:08

Of Impact Statement
on HB No. 126

HOUSE OF REPRESENTATIVES

LEGISLATIVE BUDGET BOARD
CRIMINAL JUSTICE POLICY IMPACT STATEMENT

March 16, 1995

TO: Honorable Allen Place, Chair
Committee on Criminal Jurisprudence
House of Representatives
Austin, Texas

IN RE: Committee Substitute for
House Bill No. 126

FROM: John Keel, Director

In response to your request for a Criminal Justice Policy Impact Statement on HB126 (relating to a prohibition of the requirement of a polygraph examination of a complainant as a condition of charging a defendant accused of certain criminal offenses) this office has determined the following:

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

HOUSE COMMITTEE REPORT SUPPLEMENTAL PRINTING

95 MAR 16 PM 8:08

Of Impact Statement
on HB No. 126

HOUSE OF REPRESENTATIVES

LEGISLATIVE BUDGET BOARD
CRIMINAL JUSTICE POLICY IMPACT STATEMENT

March 16, 1995

TO: Honorable Allen Place, Chair
Committee on Criminal Jurisprudence
House of Representatives
Austin, Texas

IN RE: Committee Substitute for
House Bill No. 126

FROM: John Keel, Director

In response to your request for a Criminal Justice Policy Impact Statement on HB126 (relating to a prohibition of the requirement of a polygraph examination of a complainant as a condition of charging a defendant accused of certain criminal offenses) this office has determined the following:

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

H.B. No. 126

By DANBURG

**A BILL TO BE ENTITLED
AN ACT**

Relating to prohibition on the requirement of a polygraph examination of a complainant as a condition to charging defendants accused of certain criminal offenses.

NOV 14 1994

Filed with the Chief Clerk

JAN 30 1995

Read first time and referred to Committee on CRIMINAL JURISPRUDENCE

3-13-95

Reported favorably (~~as amended~~)
(as substituted)

MAR 17 1995

Sent to Committee on (Calendars)
(~~Local & Consent Calendars~~)

Read second time (comm. subst.) (amended); passed to third reading (failed) by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

Constitutional rule requiring bills to be read on three several days suspended (failed to suspend)
by a vote of _____ yeas, _____ nays, _____ present, not voting

Read third time (amended); finally passed (failed to pass) by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

Engrossed

Sent to Senate

CHIEF CLERK OF THE HOUSE

OTHER HOUSE ACTION:

MAR 28 1995

Motion to postpone further consideration
of HB. No. 126 until Wed.
April 5 at 10am
prevailed by a non-record vote.

APR 5 1995

LAI ON TABLE
SUBJECT TO CALL

Received from the House

Read and referred to Committee on _____

Reported favorably _____

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time

Ordered not printed

Laid before the Senate

Senate and Constitutional Rules to permit consideration suspended by (unanimous consent)
(_____ yeas, _____ nays)

Read second time, _____, and passed to third reading by (unanimous consent)
(a viva voce vote)
(_____ yeas, _____ nays)

Senate and Constitutional 3 Day Rules suspended by a vote of _____ yeas, _____ nays

Read third time, _____, and passed by (a viva voce vote)
(_____ yeas, _____ nays)

Returned to the House

SECRETARY OF THE SENATE

OTHER SENATE ACTION:

_____ Returned from the Senate (as substituted)
(with amendments)

_____ House concurred in Senate amendments by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House refused to concur in Senate amendments and requested the appointment of a conference committee
by a (non-record vote) (record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House conferees appointed: _____, Chair; _____,

_____ Senate granted House request. Senate conferees appointed: _____, Chair;

_____ Conference committee report adopted (rejected) by the House by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ Conference committee report adopted (rejected) by the Senate by a (viva voce vote)
(record vote of _____ yeas, _____ nays)

95 MAR 16 PM 6:30
HOUSE OF REPRESENTATIVES